



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 21, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2017OPA-1276

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Sustained
# 2	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Sustained

Imposed Discipline

Retired Prior to Proposed DAR

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

It was alleged that the Named Employee violated the law and acted unprofessionally when he was arrested for drunk driving.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

5.001 – Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

On December 11, 2017, Named Employee #1 (NE#1), then employed as an SPD Sergeant, was arrested for DUI by the Washington State Patrol (WSP). Reports generated by WSP indicated that a vehicle was observed on Interstate 5 driving erratically and making significant lane changes. The WSP trooper pulled the vehicle over and determined that it was driven by NE#1, who self-identified as an SPD employee. The WSP trooper noted that NE#1's eyes were bloodshot and that he smelled of alcohol. NE#1 reportedly told the WSP trooper that he had consumed two beers, drinking the last one approximately three hours prior. The WSP trooper documented that NE#1 said that he thought he was in Everett, Washington at the time of the stop, when Everett was approximately 10 miles away. The WSP trooper asked NE#1 if he would consent to field sobriety tests and NE#1 declined. NE#1 was arrested for DUI. He later provided breath samples of .184/.184 and .182/.180, well over the legal limit.

NE#1 was criminally charged with DUI and that charge was later amended to Reckless Driving. NE#1 pleaded guilty to Reckless Driving and was sentenced on August 17, 2020. As part of that plea, he stated: "On December 11, 2017, I drove a motor vehicle in King County, the State of Washington in a manner manifesting a wanton disregard for the safety of property (leaving my lane of travel) and with alcohol in my system."



During the pendency of this investigation, NE#1 went on long-term leave and then retired from SPD. As such, he was unavailable to be interviewed in this case. However, he did provide the following written statement to OPA:

On Dec. 11 2017 I was stopped on I-5 and arrested for DUI by WSP. I was released after cooperating with the investigation and was driven home by the arresting officer. I immediately contacted my chain of command of the incident. I enrolled in a one year outpatient alcohol treatment program, which I completed successfully. I received much needed support from my chain of command and my peers during this process, which helped tremendously. I complied with all the legal requirements asked of me and along with legal counsel was present at all legal hearings and paid all fines. The case concluded in me pleading to Reckless Driving. I agree with and accept that plea. At the time of this incident I did not think I was too impaired to drive. I made a mistake. I respectfully apologize for bringing any discredit to the profession, the department and myself.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

NE#1 admitted that his actions were contrary to law. This is further established by the results of his breath tests and his pleading guilty to reckless driving. Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 – Allegation #2

5.001 – Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-10.)

As recognized by NE#1, OPA finds that he violated the Department’s professionalism policy by drinking and driving, as well as through his subsequent arrest, prosecution, and guilty plea. OPA concludes that this undermined public trust and confidence in him, as a law enforcement officer. Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**